

PATENT

IAP7 Rec'd PCT/P 14 FEB 2006
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
Brandon L. Hudgeons et al.

By the Examiner:

Serial No.: 10/516,724

International Serial No.: PCT/US03/13745

Filed: December 2, 2004

International Filing Date: May 1, 2003

Priority Date: May 1, 2002

Title: INTERACTIVE MULTI-MEDIA SYSTEM

Mail Stop PCT
Commissioner for Patents
Office of PCT Legal Administration
P.O. Box 1450
Alexandria, VA 22313-1450

CERTIFICATE OF MAILING BY EXPRESS MAIL

"EXPRESS MAIL" Mailing Label No. EV 412377872 US
Date of Deposit February 14, 2006
I hereby certify that this paper or fee is being deposited with the
U.S. Postal Service "Express Mail Post Office to Addressee" service
under 37 CFR 1.10 on the date indicated above and is addressed to:

Mail Stop PCT
Commissioner for Patents
Office of PCT Legal Administration
P.O. Box 1450
Alexandria, VA 22313-1450

Type of Print Name Martina Rocha

Martina Rocha
Signature

Dear Sir or Madame:

TRANSMITTAL LETTER

Transmitted herewith for filing in the above referenced matter are the following items:

1. **Renewed Petition Under 37 CFR 1.137(b) (2pp);**
-90.00 OP
2. **Copy of Decision on Petition for Revival Under 37 CFR 1.137(b) dated December 20, 2005 (2 pp);**
3. **Check #2244 in the amount of \$2270.00; and**
4. **Confirmation postcard. Please file mark stamp and return.**

Repln. Ref: 03/08/2006 **A fee is due.** Applicant believe's the check being submitted covers the fees required
DAH:501259 with this communication. If Applicant is in error, the Commissioner is hereby authorized
FC: 9204 to charge any underpayment to Simon, Galasso & Frantz Deposit account no. 50-1259
specifically under Ref. Number 1590.00002.

RECEIVED

02/17/2006 HKAYPAGH 00000014 10516724

01 FC:2453 750.00 OP
02 FC:1206 1520.00 OP

Respectfully submitted,
Brandon L. Hudgeons

By: Raymond M. Galasso
Raymond M. Galasso
Reg. No. 37,832

SIMON, GALASSO & FRANTZ PLC
P.O. BOX 26503
AUSTIN, TEXAS 78755-0503
TELEPHONE: (512) 372-8240
FACSIMILE: (512) 372-8247

03/02/2006 CSMOOT

00000001 10516724 22 FEB 2006

150.00 OP
50.00 OP
100.00 OP
100.00 OP
International Division
63.00 OP
40.00 OP
30.00 OP
525.00 OP

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: : By the Examiner:
 Brandon L. Hudgeons et al. :
 :
 Serial No.: 10/516,724 : International Serial No.: PCT/US03/13745
 :
 Filed: December 2, 2004 : International Filing Date: May 1, 2003
 : Priority Date: May 1, 2002
 Title: INTERACTIVE MULTI-MEDIA SYSTEM

Mail Stop PCT
 Commissioner for Patents
 Office of PCT Legal Administration
 P.O. Box 1450
 Alexandria, VA 22313-1450

CERTIFICATE OF MAILING BY EXPRESS MAIL

"EXPRESS MAIL" Mailing Label No. EV 412377872 US
 Date of Deposit February 14, 2006
 I hereby certify that this paper or fee is being deposited with the
 U.S. Postal Service "Express Mail Post Office to Addressee" service
 under 37 CFR 1.10 on the date indicated above and is addressed to:

Mail Stop PCT
 Commissioner for Patents
 Office of PCT Legal Administration
 P.O. Box 1450
 Alexandria, VA 22313-1450

Type or Print Name Martha Rocha

Martha Rocha
 Signature

Dear Sir or Madame:

RENEWED PETITION UNDER 37 CFR 1.137(b)

In response to the Decision On Petition for Revival Under 37 CFR 1.137(b) mailed December 20, 2005 for the above-identified application Applicant respectfully requests reconsideration on the merits of this petition.

**APPLICANT HEREBY REQUESTS RECONSIDERATION ON THE MERITS OF THIS
 PETITION FOR REVIVAL OF THIS APPLICATION**

NOTE: A grantable petition requires the following items:

- (1) Petition fee
- (2) Termination disclaimer with disclaimer fee—required for all international applications having an international filing date before June 8, 1995; and
- (3) Statement that the entire delay was unintentional.

RECEIVED

22 FEB 2006

1. PETITION FEE

☒ small entity - fee \$ 750.00 37 CFR 1.17(m). Applicant claims small entity
 status. See 37 CFR 1.27.

☐ other than small entity - fee \$ _____ (37 CFR 1.17(m))

2. TERMINAL DISCLAIMER WITH DISCLAIMER FEE

☒ Since this international application has an international filing date on or after June 8, 1995, no terminal disclaimer is required.

Legal Staff
 International Division

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d) of \$ ____ for a small entity or \$ ____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

3. STATEMENT BY APPLICANT

Applicant unintentionally missed the deadline for entering the national phase for this matter. Applicant was required to pay the basic national fee for entry into the national stage at that time. Applicant was also required to pay the petition fee. However, such fees were not available in Deposit Account No. 50-1259 at the time when the United States Patent and Trademark Office attempted to charge this Deposit Account. Applicant states that the entire delay in filing and paying the required fees from the due date for the reply until the filing of a grantable petition was unintentional.

A check in the amount of \$2,270.00 (\$1520 total national fee and \$750 for petition fee) is enclosed. The Applicant has now met all the requirements as set forth in the Decision dated December 20, 2005.

Applicant respectfully requests that the United States national application be revived and reinstated. Applicant has fulfilled all the conditions/acts required for entry into the United States national phase as specified in the United States national law, including this Renewed Petition within the time limit as required by this national law. Applicant respectfully request prompt favorable action.

Respectfully submitted,
Brandon L. Hudgeons, et al.

By:



Raymond M. Galasso
Reg. No. 37,832

SIMON, GALASSO & FRANTZ PLC
P.O. BOX 26503
AUSTIN, TEXAS 78755-0503
TELEPHONE: (512) 372-8240
FACSIMILE: (512) 372-8247



20 DEC 2005

Raymond M. Galasso
SIMON, GALASSO & FRANTZ PLC
P.O. Box 26503
Austin, Texas 78755-0503

In re Application of:
HUDGEONS, Brandon, et al.
U.S. Application No.: 10/516,724
PCT No.: PCT/US03/13745
International Filing Date: 01 May 2003
Priority Date: 01 May 2002
Attorney's Docket No.: 1590.00002
For: INTERACTIVE MULTI-MEDIA SYSTEM

DECISION ON PETITION
FOR REVIVAL UNDER
37 CFR 1.137(b)

This decision is issued in response to applicant's Petition for Revival under 37 CFR 1.137(b), filed 02 December 2004.

BACKGROUND

On 01 May 2003, applicants filed international application PCT/US03/13745 which claimed a priority date of 01 May 2002 and designated the United States. The deadline for filing the basic national fee was thirty months from the priority date, that is, 01 November 2004.

On 02 December 2004, applicant filed the present petition for revival under 37 CFR 1.137(b), accompanied by, among other materials, a transmittal letter requesting entry into the national phase for international application PCT/US03/13745.

DISCUSSION

37 CFR 1.137(b) permits the filing of a petition to revive an abandoned application where the abandonment resulted from an unintentional delay. A grantable petition under this section must include: (1) the required reply, unless previously filed; (2) the petition fee required by law; (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional;" and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c). Applicant here has failed to satisfy items (1) and (2).

Regarding item (1), the "required reply," section 711.03(c) of the Manual of Patent Examining Procedures states that:

[g]enerally, the required reply is the reply sufficient to have avoided abandonment, had such reply been timely filed.

Here, the "required reply" was payment of the basic national fee for entry into the national stage. The present petition included the authorization to charge Deposit Account No. 50-1259 the required fees, including the small entity basic national fee. However, when the USPTO attempted to charge the Deposit Account for the required fees, the Deposit Account had insufficient funds. Accordingly, the Deposit Account authorization cannot be treated as a payment for the required fees. Because the "required reply" has not been submitted, item (1) is not satisfied.

Similarly, with respect to item (2), the authorization to charge Deposit Account No. 50-1259 for the petition fee was insufficient in that the Deposit Account did not contain sufficient funds.

CONCLUSION

Applicants' petition or revival under 37 CFR 1.137(b) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should be entitled "Renewed Petition Under 37 CFR 1.137(b)" and include the materials required to satisfy items (1) and (2) above, that is, payment of the applicable basic national fee and petition fee.

Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration



Richard M. Ross
PCT Petitions Attorney
Office Of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459